

LAW OFFICES

**COHN AND MARKS**

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JOEL H. LEVY  
ROBERT B. JACOBI  
ROY R. RUSSO  
RONALD A. SIEGEL  
LAWRENCE N. COHN  
RICHARD A. HELMICK  
WAYNE COY, JR.  
J. BRIAN DE BOICE

SUSAN V. SACHS  
KEVIN M. GOLDBERG  
JOSEPH M. DI SCIPIO

SUITE 300  
1920 N STREET N.W.  
WASHINGTON, D.C. 20036-1622

TELEPHONE (202) 293-3860  
FACSIMILE (202) 293-4827  
HOMEPAGE WWW.COHNMARKS.COM

OF COUNSEL  
MARCUS COHN  
LEONARD H. MARKS  
STANLEY S. NEUSTADT  
RICHARD M. SCHMIDT, JR.

DIRECT DIAL: 202-452-4836  
INTERNET ADDRESS:

August 2, 1999

**VIA HAND DELIVERY**

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
Portals II, Filing Counter, TW-325  
445 12th Street S. W.  
Washington, D. C. 20554

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AUG 2 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: Re: MM Docket No. 99-25**

Dear Ms. Salas

Transmitted herewith, on behalf of The Rocky Mountain Corporation for Public Broadcasting ("RMCPB"), are the original and four (4) copies of its Comments in the above-referenced Docket.

Leave is hereby requested to accept a facsimile copy of the pleading which was mailed from Albuquerque by Express Mail and scheduled to arrive today for review and filing, but due to delays in the mail service, was not received in time for this filing. The original will be transmitted to the Commission promptly upon receipt.

Should you have any questions with respect to this filing, please contact the undersigned

Very truly yours

Wayne Coy, Jr.

No. of Copies rec'd 074  
List Attached



## ROCKY MOUNTAIN CORPORATION FOR PUBLIC BROADCASTING

1603 Sigma Chi Road, N.E.  
Albuquerque, New Mexico 87106  
505-242-6930



RECEIVED

AUG 2 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

July 31, 1999

The Secretary  
FCC  
Washington DC 20554

Re: MM Docket 99-25:  
RM-9208  
RM-9242

INFORMAL COMMENT ON THE PROPOSAL TO ESTABLISH  
NEW CLASSES  
OF LOW POWER FM RADIO STATIONS

1. The Rocky Mountain Corporation for Public Broadcasting (RMCPB) respectfully files informal and timely comment on the Notice of Proposed Rule Making, MM Docket No. 99-25, February 3, 1999 (the "NPRM").

RMCPB is a membership organization of public broadcasting stations and entities in the Rocky Mountain states, independent of the Corporation for Public Broadcasting and receiving no federal funding. Its purpose is to enhance development and operation of public broadcasting in the Rocky Mountain states--and increasingly to protect the infrastructure ensuring service to isolated rural communities and areas.

We are committed to the proposition that it is as vital to maintain and protect an existing service as to implement a new one.

2. In an uncertain world, there are some eternal verities:

Change is not necessarily for the better.

There are always unintended consequences.

If it ain't broke, don't fix it.

When a can of worms is opened, the top won't go back on.

Hippocrates was dead right!

3. Within that context, we do not intend to dwell on which hairs might possibly be split, leaving that to those who enjoy picking such particular nits.

We instead address the major substance of the NPRM--its intent to change--even reverse--time tested FM allocation policies that serve public, and broadcasting, well, and so doing, undercut the bedrock policy concept of American broadcasting: "The public interest, convenience and necessity".

And we submit it is by that monolithic standard the proposal must be judged, weighed and measured--its need, desirability and practicability.

4. Rationale for LPFM proposal: The moment we come to "unmet needs for community-oriented broadcasting..." we tread a far narrower path than ever before. It hasn't been enough for licensees through the years to broadcast programming responsive to the needs, interests and concerns of the community? Or is that not "community-oriented"? And by what systematic examination of the public service records of broadcast stations are the referenced "claims" of needs ignored validated?

Absent such study, what validity is there to the assumption that stations <sup>1</sup> "often" ignore needs?

Some may conceivably have done so. But where is the record? Where meaningful evidence? And isn't the basic concept still that the station's obligation is not to an individual or group but rather to the public to air a diversity of points of view and services?

5. Ownership restrictions. In response to claims of ignored needs, the Commission proposes ownership limits. Industry consolidation is hardly news, nor is it rocket science to pinpoint responsibility. Restricting multiple ownership in a community is of course sensible. <sup>2</sup>

And while having a national ownership cap is better than not, the max will inevitably become the min for national NCE-FM applicants--noncommercial, but non-public, radio entities--who having strip-mined available NCE-FM frequencies need new worlds to conquer.

6. Nevertheless, tempting as it is to dismiss LPFM because it has all the earmarks of a feel-good "neat idea" certain to generate warm and fuzzy feelings in its proponents, let it be stipulated that inevitably some needs go unmet and that it would be desirable to "foster opportunities for new radio broadcast ownership and promote additional diversity in radio voices and program services". <sup>3</sup>

But there's still the third issue: "Is it practicable?" And always the devil is in the details. What might well be desirable, were we still in the frontier period of FM spectrum utilization, is manifestly not with the open range latticed with "bob" wire and the new homesteaders pitted against the ranchers, and cattlemen against sheepmen.

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<sup>1</sup> Including our public radio stations in smaller and isolated rural towns and communities?

<sup>2</sup> But is this not treating the mote rather than the beam?

<sup>3</sup> Provided the gains are greater than the losses.

Were new service to utilize a different band, it would be one thing. Curtailing an ongoing service clearly in the public interest, quite another. And damaging that service--perhaps destroying it and the public radio system in rural and isolated areas--quite another.

It's a risk rural America should not have to take!

7. Evolution of rural NCE-FM public radio service in the Rocky Mountain region.

Since 1968 RMCPB has worked with Public Radio stations in the Rocky Mountain states, providing eligible nonprofit entities consulting services in preparing FCC, and PTFP, applications for stations, translators and interconnection facilities to extend service to the unserved and maintain existing service in our vast and thinly populated region--1/3 of the contiguous U. S. but only 1/3 of the population.

Substantial numbers of citizens in these remote, rural and isolated areas enjoy the free broadcast services they deserve,<sup>4</sup> and in fact need far more than those in metropolitan areas, because the Commission wisely chose to authorize translators to meet the special geographic, topographic and demographic challenges of this region.

Translators were then clearly the appropriate technology in extending broadcast service efficiently and cost-effectively. And no one had cause to worry they would now be a dangerously endangered species.<sup>5</sup>

In 1985, after several years of efforts to persuade the Commission to allow modest local origination on PR translators to better serve the needs of local communities too small to support full service local stations but with sufficient programmatic resources for some origination, that need was met by "Rocky Mountain Alternative Stations" [RMAS].<sup>6</sup> With rules in re unattended operation changed, RMCPB requested conditions attached to CPs of RMAS removed and affected stations advised.

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<sup>4</sup> Both public and commercial.

<sup>5</sup> As they are today! While our particular concern is that NCE-FM Public Radio translators face extinction, commercial operators face similar predatory threats.

<sup>6</sup> RMA stations filled the gap between full service public radio stations and translators with local origination in isolated communities with limited financial resources. Repeating another public radio station during the bulk of their on-air operation, they provided vital local service the rest of the time.

As authorized, monitoring requirements during repeat mode were waived under certain conditions: Power limit of 100W ERP, origination not more than 50% of weekly broadcast time, distant or local access to cutoff and repeated-station EBS responsibility during repeat mode.

Currently, and for several years, RMCPB advice to stations reliant on translators for extended area service is to activate 100W satellite stations which, as repeaters, extend public radio service from station to rural areas and also complement repeater service with local programming from local studio facilities.

But PR station construction of satellite repeaters is of necessity dependent on availability of NTIA/PTFP grant support + local matching funds, and the grant cycle induces delays of at least 18 months. Meanwhile, rural service remains primarily dependent on sustained translator service.

And we have a crisis in universal access to free broadcasting service in isolated rural communities and areas.

- \* Rural Americans, like all other Americans, are entitled the benefits of free broadcast services.
- \* Rural broadcast access is primarily by translator.
- \* Translators are the "Mexican spotted owls" of broadcasting.
- \* Replacement frequencies too an endangered and nonrenewable resource.

A secondary service, translators are vulnerable to predatory station applications proposing overlapping coverage, and must cease operation when station approved and on air. The vultures are circling--ready to pick the bones of PR translators already under siege. Given the current tide of NCE-FM applications--by noncommercial, but non-public, radio entities--there can be no reasonable doubt our rural communities and their neighbors will lose broadcast service.

Nor that the loss--to public radio listeners in these communities, to the public radio stations, to New Mexico public radio and to public radio and public broadcasting in the larger sense--is unacceptable, given current national policy trends, Congress's directive to CPB and CPB's reallocation of funds to enhance rural service.

It is ironic the Commission, oblivious to Congressional concern and intent, should now seriously contemplate a proposal so likely to wash out the "last miles" infrastructure of public radio's distribution system.<sup>7</sup>

And therein lies the rub:

A change that fails to protect  
existing public radio translator service  
for the sake of whatever chimerical benefits  
fails rural America and the people who live there.

It must not happen!

8. LP1000 Stations. The first class of LPFM stations proposed is loaded

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<sup>7</sup> With its proposed "relaxed interference standards" for LPFM.

with devilish details. With a MERP of 1000W, it will be "a primary service" with an interference protected contour 14.2km/8.9mi in radius.

Since as a primary station in the FM service, an LP1000 would provide (and would receive) interference protection vis-a-vis other co-channel, 1st adjacent-, 2nd adjacent- and 17 channel primary stations, but isn't required to protect a secondary station <sup>8</sup> from interference, <sup>9</sup> an LP1000 would be able to force existing translators off air or to change frequency if a problem. <sup>10</sup>

Comment: Should FM translators and boosters pre-dating an LP1000 receive "grandfathered" interference protection from LP1000s?

A no-brainer. Of course! They must! <sup>11</sup>

Comment: Should existing LP100s receive protection from new LP1000s?

Perhaps. <sup>12</sup>

9. LP100 Stations. The second class of LPFM stations is proposed as a secondary service with 100W MERP and a 1 mV/m signal contour of 5.6km/3.5mi in radius. Secondary stations in FM service must protect primary stations and other secondary stations, but do not receive interference protection from primary stations.

Comment: Re impact on translators, should LP100 stations be authorized on an equal basis with FM translators and boosters, since both "secondary"?

NO!!!

Or should LP100s be primary in re FM translators and boosters, which do not originate programming?

CERTAINLY NOT!

And, if FM translators treated as secondary to LP100s, should the FCC provide "grandfathered" interference protection to translator and booster service existing before the adoption of an LP100 class?

Another no-brainer. Of course! It must!

10. "Microradio" stations. A possible third class of LPFM stations with an ERP of 1-10W operating as a secondary service to all other FM stations <sup>13</sup> and a signal contour radius of 1.8-3.2km/1-2mi.

<sup>8</sup> i.e., translators, boosters and NCE Class D NCE stations.

<sup>9</sup> While secondary stations must protect primary stations and other secondary stations.

<sup>10</sup> The real rub! A danger too great to risk!

<sup>11</sup> Unless a Commission agenda is to destroy the public radio rural distribution system.

<sup>12</sup> Because creating a class of "secondary" FM broadcast stations with the same MERP as standard FM stations muddied the water.

<sup>13</sup> Including proposed LP100s, translators, and boosters.

Comment: Should the FCC establish "Microradio" stations?

Were there a wide wide world of unused FM frequencies,  
possibly "Yes".

But given present saturation of the band,  
NO. 14

And why, given FCC action 20 years ago to permit more efficient and effective use of the reserved band (by prohibiting use of the band by then-existing Class D 10W NCE stations), does it now make sense to allow new 10W and -10W use when the band's cup runneth over?

To interfere with efficient and effective use of it?

11. NCE Restrictions. Under present FCC rules LPFMs proposing to operate in the reserved band would be authorized only to nonprofit educational organizations for broadcasting NCE educational programming.

Comment: Should secondary LPFM stations operating in the reserved band be authorized only to such entities for broadcast of educational programming?

Another no brainer.  
Why on earth should we open the reserved band  
to for-profit licensees  
or allow it used for any other purpose?

Or, whether all LPFM or "microradio" stations, even if operating in the commercial band, should be limited to nonprofits for noncommercial use or open to commercial service?

What rational rationale can there be  
for barring commercial operation in the commercial band?

Better the Sauce-for-the-geese rule of thumb.

The most discriminatory,  
most inexplicable  
and least defensible rule the Commission could adopt  
would be to reject commercial LPFM  
but approve noncommercial. 15

12. Application of other Broadcast Rules. Though the Commission proposes to treat LP1000 stations the same as full power FMs, it asks should there be different rules for L100s.

Comment: No minimum operating schedule?

Why ever not?

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14 The Commission needs remember the "Tower of Babel" effect. And how 40 years ago it was possible to drive across the country and always have a clear AM signal to listen to. Having ruined AM, does the FCC really want to do it to FM?

15 That dog won't hunt!

If a station isn't present and accounted for when you want it,  
it isn't a station--  
it's a hobby!.

Comment: No minimum local origination requirements?

It appears the FCC is not serious about LPFM.  
The NPRM is just a game, right?

13. Findings. The NPRM's far reaching proposal radically changes <sup>16</sup> long standing and effective FM allocation policies. So fraught with unacceptable risk to existing NCE-FM rural area service is it, so clearly inimical to the public interest is it, the position is unwarranted and untenable.

Changes that risk depriving our citizens in isolated, remote, rural areas of broadcast services they now enjoy, are better left unmade, unadopted and unimplemented.

Far from the giant leap to a finer future its proponents think it, the NPRM is instead a case of "Full Ahead to the Past". <sup>17</sup> And thus all the more disquieting that the agency expressly created to prevent interference should now be so unconcerned with the probability of interference.

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<sup>16</sup>

Or even reverses.

<sup>17</sup>

To the anarchy of the mid-'20's that led to the FRA.



For all of the above reasons, the Rocky Mountain Corporation for Public Broadcasting recommends and urges the Commission TAKE NO ACTION in re the Proposed Rule Making in MM Docket No. 99-25 <sup>18</sup> at this time.

RMCPB further requests the Commission instead pursue thorough and painstaking study of LPFM and its potential effects on America's traditional broadcasting policies, systems and infrastructure, and, prior to further action, make a full presentation of the matter to appropriate subcommittees and committees of the Congress.

Respectfully submitted,

ROCKY MOUNTAIN CORPORATION FOR PUBLIC BROADCASTING

By: 

E. W. Bundy, Ph.D.  
Executive Director

ROCKY MOUNTAIN CORPORATION FOR PUBLIC BROADCASTING  
1603 Sigma Chi Rd NE  
Albuquerque, New Mexico 87106  
(505) 242-6930

Dated: August 2, 1999

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<sup>18</sup> Which proposes to establish two new classes (LP1000 and LP100) of low power FM (LPFM) radio stations, and possibly a third class of "micro-radio" FM stations.